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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

D. Faulkner

PLM II GAO412

IN REPLY REFER TO: B-148581

DEC 28 1978

The Honorable Gladys Noon Spellman
Chair, Subcommittee on Compensation
and Employee Benefits
House of Representatives

AGC 13 2908
HSE

*[Authority of the Department of Defense To Withhold or Reduce The Wage Increases Due
Dear Madam Chair: Nonappropriated Fund Employees in The Washington Metropolitan Area]*

Further reference is made to your letter of November 16, 1978, requesting our opinion on the authority of the Department of Defense (DOD) to withhold or reduce the wage increases due nonappropriated fund employees in the Washington metropolitan area, in order to conform or comply with the wage and price controls imposed by President Carter.

After discussions were held between our respective staffs, we contacted the DOD to try to determine exactly what they were planning to do. We were advised that they had requested advice from the Civil Service Commission (CSC) concerning their authority in this area, and that discussions on the subject between CSC and the Office of Management and Budget were scheduled for December 1.

On December 1, we became aware, through the media, that the National Federation of Federal Employees had filed suit against the DOD to compel payment of the disputed pay raises. On December 4, we obtained a copy of that complaint from the Clerk of the United States District Court for the District of Columbia. A copy is enclosed for your consideration.

Clearly the issues raised in this complaint are precisely those about which you have sought our opinion. Since our opinions are not binding upon the courts, it is our longstanding policy not to rule on issues that are being litigated in the courts. That policy is for application here and we are, therefore, closing our file in the matter. The issues you raise will be authoritatively resolved through the judicial process.

Sincerely yours,

R. F. KELLER

Acting Comptroller General
of the United States

Enclosure

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Letter